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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-851

Certain Preserved Mushrooms from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2013-2014

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

SUMMARY: The Department of Commerce (the Department) received a timely request for a new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) from Dezhou Kaihang Agricultural Science Technology Co., Ltd. (Dezhou Kaihang). The Department determined that the request meets the statutory and regulatory requirements for initiation. As a consequence, in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d)(1), the Department is initiating an antidumping duty new shipper review of Dezhou Kaihang. The period of review (POR) of this new shipper review is February 1, 2013, through February 28, 2014, as explained further in the "Period of Review" section below.

FOR FURTHER INFORMATION CONTACT: John Drury or Ilissa Shefferman, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-0195 or (202) 482-4684, respectively.

## SUPPLEMENTARY INFORMATION

### Background

On February 19, 1999, the Department published the antidumping duty order on certain preserved mushrooms from the PRC.<sup>1</sup> The antidumping duty order on certain preserved mushrooms from the PRC therefore has a February anniversary month. On February 27, 2014, Dezhou Kaihang timely filed a request for a new shipper review.<sup>2</sup> In its request for review, Dezhou Kaihang identified itself as the exporter of the subject merchandise, while listing the producer as Shandong Fengyu Edible Fungus Co., Ltd. (Fengyu).

Pursuant to the requirements set forth in section 751(a)(2)(B)(i) of the Act and 19 CFR 351.214(b)(2), Dezhou Kaihang certified that: (1) it did not export subject merchandise to the United States during the period of investigation (POI) (see section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(ii)(A)); (2) since the initiation of the investigation it has never been affiliated with any company that exported subject merchandise to the United States during the POI, including those companies not individually examined during the investigation (see section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A)); and (3) its export activities were not controlled by the central government of the PRC (see 19 CFR 351.214(b)(2)(iii)(B)). Dezhou Kaihang and Fengyu also certified that Fengyu did not export the subject merchandise to the United States during the POI (see 19 CFR 351.214(b)(2)(ii)(B)).<sup>3</sup>

With respect to the certifications by and on behalf of Fengyu, the Department notes that Fengyu was subject to a prior new shipper review. In that review, the Department rescinded the

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<sup>1</sup> See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From the People's Republic of China, 64 FR 8308 (February 19, 1999).

<sup>2</sup> See Letter from Dezhou Kaihang to Secretary of Commerce, dated February 27, 2014 (Dezhou Kaihang Request).

<sup>3</sup> Id. at 2 and Attachment 1.

review because the Department was “unable to make an affirmative determination that subject merchandise produced and exported by Fengyu actually entered the United States for consumption during the POR.”<sup>4</sup> The Department intends to explore the circumstances behind Fengyu’s certifications and documentation during the course of the instant review.

Moreover, in accordance with 19 CFR 351.214(b)(2)(iv), Dezhou Kaihang submitted documentation establishing the following: (1) the date on which it first shipped subject merchandise to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customers in the United States.<sup>5</sup>

Finally, the Department conducted a U.S. Customs and Border Protection (CBP) database query and, except as explained below, confirmed the price, quantity, date of sale, and date of entry of the sale at issue.<sup>6</sup>

#### Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request a new shipper review within one year of the date on which its subject merchandise was first entered. In terms of timing, 19 CFR 351.214(d) explains that where the new shipper review was requested in the six-month period ending with the end of the anniversary month the Department initiates the review in the calendar month immediately following the anniversary month. Moreover, 19 CFR 351.214(g)(1)(i)(A) states that if the new shipper review was initiated in the month immediately following the anniversary month, the review will normally cover, as appropriate, entries, exports,

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<sup>4</sup> See Certain Preserved Mushrooms From the People’s Republic of China: Final Results and Final Rescission in Part, of Antidumping Duty New Shipper Reviews, 76 FR 16604, 16606 (March 24, 2011).

<sup>5</sup> See Dezhou Kaihang Request at Attachment 2.

<sup>6</sup> Id.; see also Memorandum to the File from the Case Analyst, “Certain Preserved Mushrooms from the People’s Republic of China: U.S Customs and Border Protection Information for New Shipper Review Request,” dated March 21, 2014 (Customs Data File), and herein incorporated by reference.

or sales during the 12-month period immediately preceding the anniversary month. Therefore, because Dezhou Kaihang requested a new shipper review in February, the anniversary month, the Department is initiating this review in March, and the POR is February 1, 2013, through January 31, 2014.

In this instance, Dezhou Kaihang's sale of subject merchandise was made during the POR specified by the Department's regulations,<sup>7</sup> but the subject shipment entered within the 30 days after the end of this POR.<sup>8</sup> When the sale of subject merchandise occurs within the POR, but the entry occurs after the POR, the POR may be extended unless it would be likely to prevent the completion of the review within the time limits set by the Department's regulations.<sup>9</sup> Additionally, the preamble to the Department's regulations states that both the entry and the sale should occur during the POR.<sup>10</sup> The Department finds that extending the POR to capture this entry would not prevent the completion of the review within the time limits set by the Department's regulations. Therefore, the Department extended the POR for the new shipper review of Dezhou Kaihang by 28 days, or until February 28, 2014.

#### Initiation of Review

Based upon information on the record, and pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that Dezhou Kaihang's request meets the statutory and regulatory requirements for initiation of a new shipper review.<sup>11</sup> Accordingly, the Department is initiating a new shipper review of the antidumping duty order on certain preserved

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<sup>7</sup> See Dezhou Kaihang Request at 2 and Attachment 2.

<sup>8</sup> See Customs Data File at Attachment 1, Line 10191.

<sup>9</sup> See 19 CFR 351.214(f)(2)(ii).

<sup>10</sup> See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27319-27320 (May 19, 1997).

<sup>11</sup> See Memorandum from John Drury and Ilissa Kabak Shefferman to the File through Richard O. Weible entitled, "Initiation of Antidumping Duty New Shipper Review: Certain Preserved Mushrooms from the People's Republic of China (A-570-851)," dated March 20, 2014.

mushrooms from the PRC for subject merchandise produced by Fengyu and exported by Dezhou Kaihang. This review covers the period February 1, 2013, through February 28, 2014.<sup>12</sup> Absent a determination that the case is extraordinarily complicated, the Department intends to issue the preliminary results of this review within 180 days after the date on which this review is initiated and the final results within 90 days after the date on which the Department issues the preliminary results.<sup>13</sup>

In cases involving non-market economies, the Department requires that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of de jure and de facto absence of government control over the company's export activities.<sup>14</sup> Accordingly, the Department will issue a questionnaire to Dezhou Kaihang that will include a separate rates section. This review may proceed if the response provides sufficient indication that Dezhou Kaihang is not subject to either de jure or de facto government control with respect to its exports of preserved mushrooms. However, if Dezhou Kaihang does not demonstrate eligibility for a separate rate, it will be deemed not to have met the requirements of section 751(a)(2)(B)(i) of the Act and 19 CFR 351.214(b)(2)(iii)(B) and, therefore, not separate from the PRC-wide entity. Under such circumstances, consistent with its practice, the Department will rescind the new shipper review.<sup>15</sup>

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<sup>12</sup> See 19 CFR 351.214(g)(1)(i)(A) and discussion above concerning extending the POR.

<sup>13</sup> See section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(h)(i).

<sup>14</sup> See, e.g., Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Reviews, 75 FR 72794, 72796 (November 26, 2010), unchanged in Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews, 76 FR 9747 (February 22, 2011).

<sup>15</sup> See Certain Preserved Mushrooms from the People's Republic of China: Notice of Initiation of Antidumping Duty New Shipper Reviews, 75 FR 62108, 62108 (October 7, 2010).

Upon initiation, the Department will direct CBP to suspend liquidation of any unliquidated entries of subject merchandise produced by Fengyu and exported by Dezhou Kaihang. The Department will instruct CBP to allow (at the option of the importer) the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of subject merchandise exported by Dezhou Kaihang and produced by Fengyu in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Dezhou Kaihang certified that the sales which form the basis for its request were produced by Fengyu, the Department will instruct CBP to permit the use of a bond only for entries of subject merchandise produced by Fengyu and exported by Dezhou Kaihang.

Interested parties requiring access to business proprietary information in this new shipper review should submit applications for disclosure under administrative protective order, in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.221(c)(1)(i).

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Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

Dated: March 20, 2014.

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